

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Murray	Team: Team # 3	CCRB Case #: 201115865	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/28/2011 11:55 AM	Location of Incident: West 188th Street and Saint Nicholas Avenue, 34th Precinct stationhouse	Precinct: 34	18 Mo. SOL 3/28/2013	EO SOL 3/28/2013	
Date/Time CV Reported Wed, 10/12/2011 2:26 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/12/2011 2:26 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Carl Bennett	29180	929704	034 PCT
2. POM Elvin Pichardo	04287	937288	034 PCT
3. SGT Matthew Bourbeau	01596	929762	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Gilson	08085	932711	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Carl Bennett	Force: PO Carl Bennett used physical force against § 87(2)(b) at the intersection of West 188th Street and Saint Nicholas Avenue, in Manhattan, and at the 34th Precinct stationhouse.	
B.SGT Matthew Bourbeau	Abuse: Sgt. Matthew Bourbeau authorized the stop of an individual near the intersection of West 189th Street and Saint Nicholas Avenue, in Manhattan.	
C.SGT Matthew Bourbeau	Abuse: Sgt. Matthew Bourbeau authorized the search of an individual near the intersection of West 189th Street and Saint Nicholas Avenue, in Manhattan.	
D.POM Carl Bennett	Discourtesy: PO Carl Bennett spoke rudely to § 87(2)(b) at the 34th Precinct stationhouse.	
E.POM Carl Bennett	Abuse: PO Carl Bennett threatened § 87(2)(b) with the use of force at the 34th Precinct stationhouse.	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On October 12, 2011, § 87(2)(b) filed this complaint with the CCRB via phone (Enc. 6a-6b). On September 28, 2011, § 87(2)(b) was arrested for the sale of marijuana near the intersection of West 188<sup>th</sup> Street and Saint Nicholas Avenue, in Manhattan. The following allegations resulted:

- **Allegation A – Force: PO Carl Bennett used physical force against § 87(2)(b) at the intersection of West 188th Street and Saint Nicholas Avenue, in Manhattan, and at the 34th Precinct stationhouse.**

§ 87(2)(b), § 87(2)(g)

- **Allegation B – Abuse of Authority: Sgt. Matthew Bourbeau authorized the stop of § 87(2)(b) near the intersection of West 189th Street and Saint Nicholas Avenue, in Manhattan.**
- **Allegation C – Abuse of Authority: Sgt. Matthew Bourbeau authorized the search of § 87(2)(b) near the intersection of West 189th Street and Saint Nicholas Avenue, in Manhattan.**

§ 87(2)(g)

- **Allegation D – Discourtesy: PO Carl Bennett spoke rudely to § 87(2)(b) at the 34th Precinct stationhouse.**
- **Allegation E – Abuse of Authority: PO Carl Bennett threatened § 87(2)(b) with the use of force at the 34th Precinct stationhouse.**

§ 87(2)(b), § 87(2)(g)

- § 87(2)(g), § 87(4-b)

On December 13, 2011, an IAB spin-off was generated via CCRB case number 201115954 to address allegations of menacing and threatening behavior, stemming from § 87(2)(b)'s allegations that PO Bennett threatened him with a knife.

### Results of Investigation

#### Civilian Statement

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old, 5'9" tall, 145 pound, black male with black hair and brown eyes.

#### **NYPD Arrest Photo**

§ 87(2)(b)'s arrest photo does not depict any visible physical facial injuries (Enc. 9a).

### CCRB Testimony

On October 17, 2011, § 87(2)(b) provided a brief phone statement to the CCRB (Enc. 7a-7b), and on November 1, 2011, § 87(2)(b) was interviewed at the CCRB (Enc. 8a-8e). Both statements were consistent with any exceptions noted below.

On September 28, 2011, at approximately 11:55 a.m., § 87(2)(b) ordered a sandwich from “Gourmet Deli,” located at West 188<sup>th</sup> Street and Saint Nicholas Avenue, in Manhattan, and was waiting outside of the store while it was prepared. § 87(2)(b) was speaking to his friends, § 87(2)(b) known only to him as § 87(2)(b) two unidentified females, and one unidentified male, who will be referred to hereafter as “CV1.” CV1 stopped to speak to § 87(2)(b) greeted him with a “fist bump,” and continued walking on Saint Nicholas Avenue toward 189<sup>th</sup> Street. Seconds later, an unmarked blue or black sedan pulled up in front of Gourmet Deli and three officers exited the vehicle and approached § 87(2)(b).

PO Bennett from the 34<sup>th</sup> Precinct was identified by § 87(2)(b) via an unnamed officer who provided PO Bennett’s name to § 87(2)(b) during a 2010 police encounter. § 87(2)(b) described PO Bennett as a 6’1” tall, slim black male in his late 20’s with short black hair. PO Elvin Pichardo from the 34<sup>th</sup> Precinct, who was identified via the investigation, was described by § 87(2)(b) as a 5’8” tall, stocky Hispanic or white male in his late 20’s with short black hair. Sgt. Matthew Bourbeau from the 34<sup>th</sup> Precinct, who was identified via the investigation, was described by § 87(2)(b) as a 6’1” tall, white male in his late 30’s, who stated during the later stages of the interaction that he was a “higher ranking officer.”

PO Bennett grabbed § 87(2)(b)’s left shoulder from behind and slammed him against a nearby pole, causing § 87(2)(b) to make contact with the pole face-first. PO Bennett handcuffed § 87(2)(b) within seconds. § 87(2)(b) contends that he did not try to run or move his body in order to deter PO Bennett from apprehending or handcuffing him. PO Bennett placed § 87(2)(b) in the back of the Crown Victoria with PO Pichardo. No officer made any statements to § 87(2)(b) nor did they speak to each other, issue § 87(2)(b) verbal directives or identify themselves as officers.

On the way to the 34<sup>th</sup> Precinct stationhouse, officers stopped CV1 near the intersection of Saint Nicholas Avenue and West 189<sup>th</sup> Street, in Manhattan. From the backseat of the vehicle, § 87(2)(b) observed PO Bennett search CV1’s backpack, check his ID, and write something down on a yellow envelope. The stop of CV1 lasted only two minutes and he was released absent a summons.

Once at the 34<sup>th</sup> Precinct, § 87(2)(b) was placed in a holding cell with acquaintances who he does not know by name. § 87(2)(b) waited in the holding cell for approximately ten hours. § 87(2)(b) then engaged in a conversation with other prisoners, in which he spoke Spanish, and informed them of his previous encounters with PO Bennett. PO Pichardo overheard § 87(2)(b)’s story and alerted PO Bennett, causing PO Bennett to remove § 87(2)(b) from his cell and lead him into a 10 square foot bathroom 8 to 10 feet away from the holding cell.

PO Bennett closed the door and pushed § 87(2)(b) causing him to take three steps backward and make contact with the wall via his back. PO Bennett pointed his forefinger and middle finger in § 87(2)(b)’s right temple in a threatening manner and yelled, “Why you talking shit, you think I am a little kid, just because I am an officer don’t mean I won’t do anything. I will go to your house, I know where you live, and recited § 87(2)(b)’s home address. Just because I got a badge, does not mean I won’t fuck you up.” PO Bennett was talking so loud that everyone outside would have been able to hear.

PO Bennett removed a 10” stainless steel pocket knife with a 5” inch blade from his right pants pocket with his right hand and held it to his right side. PO Bennett never pointed the knife at § 87(2)(b) or held it against him. PO Bennett kept saying “So, whatcha wanna do, I am right here.” PO Bennett put his knife away. PO Pichardo came in and gave PO Bennett a skeptical look. § 87(2)(b) was unable to recall whether PO Bennett put the knife away prior to PO Pichardo entering the bathroom. PO Pichardo exited the bathroom and closed the door. PO Bennett then returned § 87(2)(b) to his cell.

§ 87(2)(b) was charged with the sale of marijuana. As a result of the force used against him by PO Bennett, he had no visible injuries and did not seek medical treatment.

**Witness:** § 87(2)(b)

- § 87(2)(b) is a male acquaintance of § 87(2)(b) s. § 87(2)(b) identified § 87(2)(b) as a prisoner who was inside of the 34<sup>th</sup> Precinct prisoner holding pen when § 87(2)(b) was removed by PO Bennett. § 87(2)(b) provided § 87(2)(b) s contact number to the CCRB on November 9, 2011.

**Phone Statement**

§ 87(2)(b) provided a phone statement to the CCRB on January 13, 2012 (Enc. 10a), but was uncooperative in providing a verified statement to the CCRB. § 87(2)(b) identified himself as an “acquaintance” of § 87(2)(b) s and noted that they grew up in the same neighborhood

At the time of the incident, § 87(2)(b) was inside of the 34<sup>th</sup> Precinct holding cells because he was arrested for a crime unrelated to this incident or § 87(2)(b) s arrest. PO Carl Bennett, who was identified via the investigation, removed § 87(2)(b) from the holding cell for a reason unknown to § 87(2)(b) PO Bennett “flipped out” and led § 87(2)(b) to a nearby bathroom. § 87(2)(b) observed PO Bennett use one hand to push § 87(2)(b) into the bathroom. § 87(2)(b) stumbled and made contact with a wall inside of the bathroom. PO Bennett then slammed the door of the bathroom, and § 87(2)(b) was unable to see the rest of the interaction.

PO Bennett and § 87(2)(b) were arguing loudly in the bathroom for a couple of minutes. § 87(2)(b) heard PO Bennett state, “Watch, when I catch you in the street, there will be no badge.” § 87(2)(b) alleged that PO Bennett used the expletive “fuck” numerous times, stating, “fucking kids.” § 87(2)(b) heard PO Bennett make a comment about “a knife and stabbing him.” Various plainclothes and uniformed officers were entering and exiting the prisoner holding cell area, but did not go inside of the bathroom.

On January 13, 2012, § 87(2)(b) provided a phone statement to the CCRB and scheduled an appointment for January 17, 2012. On January 17, 2012, § 87(2)(b) missed his appointment and a please call letter was sent this same day. On January 23, 2012, § 87(2)(b) s unnamed girlfriend left two voicemail messages at the CCRB to reschedule § 87(2)(b) s appointment for him. This same day, contact was established with § 87(2)(b) s girlfriend and she scheduled a second appointment for § 87(2)(b) on January 27, 2012. On January 27, 2012, § 87(2)(b) missed his second appointment. A search of the New York City Department of Correction website was conducted on September 12, 2012, concluding that § 87(2)(b) was not incarcerated.

**Attempts to Contact Civilians**

§ 87(2)(b) was unable to provide any information regarding CV1, the individual who was stopped and searched by PO Bennett on the way to the stationhouse. The 34<sup>th</sup> Precinct Stop, Question, and Frisk Log revealed only two reports prepared by the five members of the SNEU team on that day. Both reports were obtained, analyzed, and were determined to be a negative match to this incident based on time or location of incident. Similarly, PO Bennett, PO Pichardo and Sgt. Bourbeau failed to make any notations in their memo books regarding the stop of an additional individual. Absent police documentation or information from § 87(2)(b) to identify and contact CV1, his statement could not be obtained for the investigation.

§ 87(2)(b)

§ 87(2)(b) was identified via the Criminal Court Complaint as the individual who bought drugs from § 87(2)(b) denied knowing § 87(2)(b) and therefore was unable to provide any contact information for him. § 87(2)(b) s address was obtained from his BADS arrest report. On

February 17, 2012, a please call letter was mailed to § 87(2)(b)'s address, but it was returned to the CCRB by the United States Postal Service (USPS) noting that it was not a valid address (Enc. 32d). Due to the inaccurate address and commonality of his name, additional searches could not be conducted for § 87(2)(b). On September 7, 2012, a search of the New York City Department of Correction website was conducted, concluding that § 87(2)(b) is not currently incarcerated.

§ 87(2)(b) provided a contact numbers for his friends, § 87(2)(b) and a woman known only as § 87(2)(b) who were both standing in front of the Gourmet Deli with § 87(2)(b) when PO Bennett allegedly pushed § 87(2)(b) against a pole.

§ 87(2)(b) did not have additional contact information for § 87(2)(b) or know the proper spelling of his last name. Between December 30, 2011, and February 17, 2012, four attempts were made to contact § 87(2)(b) via the phone number provided by § 87(2)(b) however, the caller was unable to receive voicemail messages. On September 12, 2012, a search of the New York City Department of Correction database was conducted using the name § 87(2)(b) and yielded negative results for a current or prior inmate. Absent additional information, further database inquires could not be conducted for § 87(2)(b).

§ 87(2)(b) was uncertain of § 87(2)(b)'s full first or last name, and only had one contact number for her. Between December 20, 2011, and February 17, 2011, five attempts were made to contact § 87(2)(b) via phone, resulting in two voicemail messages and three unavailable subscriber notices. Absent additional information, further database inquires could not be conducted for § 87(2)(b).

### **NYPD Statements:**

#### **Subject Officer: PO CARL BENNETT**

- PO Bennett is a § 87(2)(b).
- On September 28, 2011, PO Bennett worked from 9:00 a.m. to 5:35 p.m. as a member of the Street Narcotics Enforcement Unit (SNEU) apprehension team. Other members of the apprehension team included Sgt. Matthew Bourbeau and PO Elvin Pichardo. All officers were wearing plainclothes and assigned to an unmarked black Chevy Impala sedan.

#### **Memo Book**

PO Bennett does not have any memo book entries regarding this incident (Enc. 11a-11b).

#### **CCRB Testimony**

PO Bennett was interviewed at the CCRB on February 17, 2012 (Enc. 12a-12c). On September 28, 2011, at approximately 11:55 a.m., PO Bennett received a point-to-point radio transmission from either PO Oscar Diaz or PO James Gilson, who were working as the SNEU observation team. The reporting officer informed PO Bennett that he had observed § 87(2)(b) who was identified via the investigation, sell drugs to another individual.

PO Bennett, Sgt. Bourbeau, and PO Pichardo exited the vehicle and approached § 87(2)(b). PO Bennett verbally identified himself as an officer and displayed his shield. § 87(2)(b) who appeared surprised, immediately denied any wrongdoing. § 87(2)(b) was compliant in being handcuffed, and PO Bennett did not use force against § 87(2)(b) including pushing him into a pole. § 87(2)(b)'s face did not make contact with any object while being handcuffed. § 87(2)(b) was placed in the RMP and

transported to the 34<sup>th</sup> Precinct stationhouse. PO Pichardo and Sgt. Bourbeau did not interact with § 87(2)(b)

PO Bennett did not observe the other alleged party in the drug transaction, and to his knowledge, the second party in the drug transaction was not apprehended. The officers did not stop the vehicle to conduct additional police investigations on the way to the stationhouse, and PO Bennett did not stop, frisk, or search § 87(2)(b) who was seen interacting with § 87(2)(b)

Once at the 34<sup>th</sup> Precinct stationhouse, § 87(2)(b) was placed in a holding cell. PO Bennett began arrest paper processing in the small room that contained only him and the arrestees. From approximately five feet away, § 87(2)(b) called PO Bennett a “jerk.” PO Bennett finished fingerprinting a prisoner before he confronted § 87(2)(b). PO Bennett informed PO Gilson that he was bringing § 87(2)(b) into the bathroom to address his disrespectful behavior.

PO Bennett removed § 87(2)(b) from the holding cell, which contained at least six other male prisoners who were jeering, laughing, and speaking to each other in Spanish. PO Bennett removed § 87(2)(b) from the holding cell to speak to him privately, as not to cause a disturbance in the cells. PO Bennett brought § 87(2)(b) into a nearby bathroom and closed the door so that the other prisoners could not hear their conversation. PO Bennett did not push § 87(2)(b) into the bathroom, nor did he use force against him while inside of the bathroom.

While in the bathroom, PO Bennett stated to § 87(2)(b) “Don’t be disrespectful. When you come into this precinct, you keep your mouth closed. Do not speak until you are spoken to.” PO Bennett did not state, “Why you talking shit? I will go to your house, I know where you live. Just because I have a badge does not mean I won’t fuck you up.” Profanity was not used at all during the interaction. § 87(2)(b) appeared unreceptive but did not argue with PO Bennett and was compliant. At no point did PO Bennett brandish a weapon, including a knife, and wield it in a threatening manner. During the one minute bathroom encounter, no officer opened the door or entered the bathroom.

**Subject Officer: SGT. MATTHEW BOURBEAU**

- *Sgt. Bourbeau is a § 87(2)(b).*
- *On September 28, 2011, Sgt. Bourbeau worked from 10:00 a.m. to 6:57 p.m. as a 34<sup>th</sup> Precinct SNEU Supervisor. Sgt. Bourbeau was working with PO Bennett and PO Pichardo in plainclothes. All three officers were utilizing RMP 695, an unmarked black sedan.*

**Memo Book**

On September 28, 2011, at 11:55 a.m., one individual was placed under arrest by PO Gilson, arrest number § 87(2)(b) [According to the Booking and Arraignment Disposition System (BADs) arrest report, this is § 87(2)(b)’s arrest number] (Enc. 13a-13d).

**CCRB Testimony**

Sgt. Bourbeau was interviewed at the CCRB on May 2, 2012 (Enc. 14a-14b). Although he confirmed working with PO Bennett and PO Pichardo for the duration of his tour, and acknowledged that he was most-likely present at the incident, Sgt. Bourbeau was unable to recall any details regarding his or PO Bennett’s interaction with § 87(2)(b). A brief description of the incident, the command log, and § 87(2)(b)’s arrest photo were presented to Sgt. Bourbeau, which did not aid in his recollection of this incident. Sgt. Bourbeau did not recall observing PO Bennett apprehend § 87(2)(b) and slam him against a pole, nor did he observe a verbal dispute between PO Bennett and § 87(2)(b) in the prisoner holding pen area.

**Subject Officer: PO ELVIN PICHARDO**

- *PO Pichardo is a § 87(2)(b).*
- *On the incident date, PO Pichardo worked the same tour and assignment as PO Bennett.*

### **Memo Book**

PO Pichardo does not have any memo book entries regarding this incident (Enc. 15a-15b).

### **CCRB Testimony**

PO Pichardo was interviewed at the CCRB on February 28, 2012 (Enc. 16a-16c). § 87(2)(g)

§ 87(2)(b)

An officer received a point-to-point radio transmission reporting a drug transaction involving a buyer and seller of marijuana in the vicinity of West 188<sup>th</sup> Street and Saint Nicholas Avenue, in Manhattan. § 87(2)(b) who was identified via PO Pichardo as the buyer of the narcotics, was apprehended and placed in the RMP. After arresting § 87(2)(b) PO Gilson provided a physical description of the narcotics seller, who was identified via PO Pichardo as § 87(2)(b)

An officer, who PO Pichardo could not recall, remained in the RMP with § 87(2)(b) while the other two officers exited the vehicle and approached § 87(2)(b) PO Pichardo was unable to recall whether he stayed in the vehicle or approached § 87(2)(b) PO Pichardo was unable to recall whether force was used against § 87(2)(b) by an officer. He did not observe PO Bennett push § 87(2)(b) into a pole. § 87(2)(b) was placed into the RMP with Sgt. Bourbeau, PO Bennett, PO Pichardo, and § 87(2)(b) and all parties were transported to the 34<sup>th</sup> Precinct stationhouse [The investigation determined, based on police documentation, that § 87(2)(b) and § 87(2)(b) were not apprehended at the same time, nor were they transported to the stationhouse in the same vehicle].

The officers did not stop, frisk, search, or interact with § 87(2)(b) on the way to the stationhouse. PO Pichardo guarded the arrestees at the 34<sup>th</sup> Precinct stationhouse prisoner holding pen area. PO Pichardo was unable to recall how long § 87(2)(b) remained in the precinct, but noted that it was an extended period of time because of issues at Manhattan Central Booking that prevented new prisoner intake. While in the holding cells, § 87(2)(b) began yelling at no one in particular about his arrest, though PO Pichardo was unable to recall his exact statements. At no point did PO Pichardo observe PO Bennett remove § 87(2)(b) from the holding cell, and he was unable to recall whether any officer addressed § 87(2)(b)'s behavior. § 87(2)(b)'s yelling was a brief disruption and PO Pichardo believes that he just "calmed down by himself." PO Pichardo did not observe PO Bennett interact with § 87(2)(b) nor did he observe PO Bennett threaten § 87(2)(b) with a knife.

PO Pichardo did not hear PO Bennett state, "Why you talking shit, you think I am a little kid, just because I am an officer don't mean I won't do anything. I will go to your house, I know where you live, and recited § 87(2)(b)'s home address. Just because I got a badge, does not mean I won't fuck you up." PO Pichardo did not observe PO Bennett in possession of a pocket knife, nor did he observe PO Bennett make any implied or verbal threats toward an arrestee.

### **Officers Not Interviewed**

#### **PO James Gilson**

- On September 28, 2011, PO Gilson worked from 9:00 a.m. to 5:35 p.m. as a SNEU observation post with PO Oscar Diaz.

### **Memo Book Entries**

At 11:14 a.m., § 87(2)(b) was placed under arrest for possession of marijuana. At 11:55 a.m., § 87(2)(b) was placed under arrest for the sale of marijuana (Enc. 17a-17b).

### **Criminal Court Complaint and Property Clerk Invoice**

PO Gilson provided supporting deposition for his arrests of § 87(2)(b) and § 87(2)(b). He testified to observing § 87(2)(b) sell § 87(2)(b) marijuana for a sum of U.S. currency (Enc. 18a-18b). The marijuana was subsequently recovered from § 87(2)(b)'s left pants pocket by PO Pichardo (Enc. 19a).

PO Gilson was not physically present for the apprehension of § 87(2)(b) nor did he assist in processing § 87(2)(b)'s arrest at the stationhouse. As such, his testimony would not alter or impact the allegation disposition recommendations.

### **NYPD Documents**

#### **Stop, Question, and Frisk Log and Reports**

The 34<sup>th</sup> Precinct stop, question, and frisk log was obtained and analyzed, yielding two potential reports prepared in relation to this incident by members of the 34<sup>th</sup> Precinct SNEU team (Enc. 21a-21c). Stop, question, and frisk report 2011-034-08892 was prepared by PO Bennett for an incident that occurred at 2:30 p.m., approximately three hours after this incident, in front of 24 Thayer Street. Stop, question, and frisk report 2011-034-08024 was prepared by PO Oscar Diaz regarding an incident that occurred at 11:08 a.m., which was prior to the incident in question (Enc. 22a-22c).

#### **34<sup>th</sup> Precinct Command Log**

The 34<sup>th</sup> Precinct command log indicates that § 87(2)(b) who was arrested for buying marijuana from § 87(2)(b) was arrested at 11:14 a.m. and arrived at the 34<sup>th</sup> Precinct at 11:35 a.m. It was noted that § 87(2)(b) was not arrested until 11:55 a.m., and he was entered into the command log at 12:05 p.m. § 87(2)(b)'s condition was listed as "apparently normal." § 87(2)(b) who is referred to in the command log as "§ 87(2)(b)" was arrested two blocks from § 87(2)(b) approximately twenty minutes later, and entered into the command log at 12:30 p.m. (Enc. 23a-23b).

#### **34<sup>th</sup> Precinct Roll Call**

The 34<sup>th</sup> Precinct Tour 2 roll call confirmed that, on the incident date, Sgt. Bourbeau was the SNEU supervisor, and PO Bennett, PO Pichardo, PO Gilson, and PO Diaz were the only officers assigned to the SNEU team (Enc. 24a-24b).

### **Arrest for Incident and Disposition**

- On § 87(2)(b), § 87(2)(b) pled guilty to the criminal sale of marijuana and was conditionally discharged. § 87(2)(b)

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of June 14, 2012, which is past the 90-day filing deadline, with regard to the incident (Enc. 29a).

§ 87(2)(b)

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§ 87(2)(b)

### **Subject Officers CCRB History**

- Sgt. Matthew Bourbeau has been a member of the service for ten years and there are no substantiated CCRB allegations against him (Enc. 4a).
- PO Elvin Pichardo has been a member of the service for seven years and there are no substantiated CCRB allegations against him (Enc. 3a).
- PO Carl Bennett has been a member of the service for ten years and there is one substantiated CCRB allegation against him (Enc. 2a-2b):
  - In CCRB case number 200903652, the CCRB substantiated a retaliatory summons allegation and recommended charges. In September 2010, the NYPD instituted instructions.

### **Conclusion**

### **Investigative Findings and Recommendations**

#### **Allegation A – Force: PO Carl Bennett used physical force against § 87(2)(b) at the intersection of West 188th Street and Saint Nicholas Avenue, in Manhattan, and at the 34th Precinct stationhouse.**

§ 87(2)(b) alleged that PO Bennett slammed his face against a pole during the course of his arrest, and then shoved § 87(2)(b) inside of the 34<sup>th</sup> Precinct stationhouse bathroom. § 87(2)(b) did not sustain visible physical injuries or seek medical treatment as a result. PO Bennett contended that he did not use force against § 87(2)(b) during the course of his arrest, and PO Pichardo confirmed this. PO Bennett acknowledged having a confrontation in the 34<sup>th</sup> Precinct stationhouse bathroom, but denied using any type of physical force against him. No other officer was present for the interaction in the bathroom.

§ 87(2)(b), § 87(2)(g)

#### **Allegation B – Abuse of Authority: Sgt. Matthew Bourbeau authorized the stop of § 87(2)(b) near the intersection of West 189th Street and Saint Nicholas Avenue, in Manhattan.**

#### **Allegation C – Abuse of Authority: Sgt. Matthew Bourbeau authorized the search of § 87(2)(b) near the intersection of West 189th Street and Saint Nicholas Avenue, in Manhattan.**

§ 87(2)(b) alleged that PO Bennett, Sgt. Bourbeau, and PO Pichardo stopped an acquaintance of his, who he does not know by name, while transporting § 87(2)(b) to the stationhouse. § 87(2)(b) contended that PO Bennett searched the individual's backpack and released him absent a summons. PO Bennett and PO Pichardo denied stopping and searching another individual during the course of this interaction.

§ 87(2)(b) was unable to provide detailed information leading to the stop and search, and he was unable to provide contact information for the individual who was allegedly stopped and searched. Similarly, a stop, question, and frisk report was not prepared for the individual and PO Bennett, Sgt. Bourbeau and PO Pichardo did not have any entries in their memo book regarding the stop or search. § 87(2)(b)

§ 87(2)(g)

**Allegation D – Discourtesy: PO Carl Bennett spoke rudely to § 87(2)(b) at the 34th Precinct stationhouse.**

**Allegation E – Abuse of Authority: PO Carl Bennett threatened § 87(2)(b) with the use of force at the 34th Precinct stationhouse.**

§ 87(2)(b) alleged that, while inside of the 34<sup>th</sup> Precinct stationhouse bathroom, PO Bennett stated to him, “Why you talking shit, you think I am a little kid, just because I am an officer don’t mean I won’t do anything. I will go to your house, I know where you live. Just because I got a badge, does not mean I won’t fuck you up.” § 87(2)(b) also alleged that PO Bennett removed a pocket knife and held it to his right side.

§ 87(2)(b) § 87(2)(b) an acquaintance of § 87(2)(b)s who was in the prisoner holding cell with him, heard PO Bennett state from behind the closed bathroom door, “Watch, when I catch you in the street, there will be no badge,” “fucking kids,” and a comment about “a knife or stabbing.” PO Bennett acknowledged taking § 87(2)(b) into the bathroom to speak to him privately, but denied that any profanity or threats were used. PO Bennett also denied brandishing a pocket knife.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Team: 3

Investigator: \_\_\_\_\_  
Signature Diana P. Murray Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date